

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 713 – HB 873

March 27, 2013

SUMMARY OF ORIGINAL BILL: Expressly includes “Tennessee” in the definition of “State” under the Tennessee Uniform Trust Code (UTC). Requires any purpose enunciated as a material purpose of the trust in the government instrument be treated as a material purpose of the trust for all purposes of UTC. Prohibits a person who becomes a beneficiary of a trust due to the exercise of a power of appointment by someone other than such person from being considered a settlor of the trust. Establishes that if the settlor is not a beneficiary of a trust, the property of the trust shall not be subject to the claims of the settlor’s creditors unless certain conditions are apply. Authorizes a trustee to pledge trust property, which is subject to a spendthrift provision, to guarantee loans made by others to the beneficiary. Limits a creditor’s claim, against property that is the subject of a qualified disposition to an investment services trust, to cases where clear and convincing evidence of intent to defraud can be shown, and a time limit of the later of two years after the disposition is made, or six months after the transfer was or reasonably could have been discovered.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005602): Deletes all language after the enacting clause. Makes various revisions to the Tennessee Uniform Trust Code, Uniform Prudent Investor Act, and Investment Services Act of 2007, including but not limited to, revisions to the following subject matter: determination of the governing jurisdiction for trusts; establishing what constitutes a sufficient nexus for a state jurisdiction provision; effects of the spendthrift provision; distributions of income or principal from the trustee to a beneficiary; compensation and reimbursement of expenses of the trustee; trust advisors or trust protectors; the trustee’s duty to inform and report on the administration of the trust and of the material facts to the beneficiary and anyone who, in a capacity other than that of a fiduciary, holds a power of appointment; the exercise of powers over discretionary and other interests; limitations of action against the trustee by a beneficiary, trustee, trust advisor or trust protector; enforcement of no-contest provisions; and powers of trust advisors and trust protectors.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

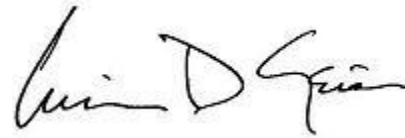
Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Department of Financial Institutions, the proposed revisions to the Tennessee Uniform Trust Code, Uniform Prudent Investor Act, and Investment Services Act of 2007 will not result in a significant regulatory or fiscal impact to the state.
- Any impact on state or local courts will be not significant.
- Any resulting impact from this bill as amended will be borne by the private sector.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise".

Lucian D. Geise, Executive Director

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